High Court ruling on Pinochet challenged in the House of Lords

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Last week's British High Court ruling that General Augusto Pinochet is immune from prosecution has only inflamed the juridical and political crisis surrounding the former Chilean dictator.

The House of Lords, Britain's highest court, began hearing an appeal against the ruling by the Crown Prosecution Service yesterday. Their verdict, which is expected on Friday, is final and cannot be appealed.

On October 28, three High Court judges rejected the Spanish extradition request on the basis that Pinochet was entitled to 'sovereign immunity' as a former head of state. They ordered Pinochet's legal costs be met from public funds, estimated at £350,000. However, they stipulated that he should remain in custody pending the prosecution appeal to the House of Lords. The General was released on bail last Friday and is currently under police guard at a private London hospital.

The High Court ruling opened up a legal minefield. In law, sovereign leaders and accredited diplomats have always been exempt from prosecution in a national court for acts carried out in the course of their official duties. Only international courts can sit in judgement, as in the Nuremberg Trials. The High Court has now ruled that immunity extends to former heads of state as well.

On Monday, a delegation of leading opponents of Pinochet's regime arrived in London to support the prosecution appeal, led by Isabel Allende, daughter of Salvador Allende, the Popular Unity president killed during the general's 1973 coup.

On Tuesday Judge Garzon, who is investigating the disappearances of Spanish citizens under the Chilean regime, filed a formal request with his government for Pinochet's extradition. Garzon's 300-page document accuses the general of involvement in the death or disappearance of over 3,000 people, and of leading an 'international criminal organisation' that conducted a campaign of genocide. The Spanish cabinet, expected to meet Friday, must approve the request before it is sent to London.

Simultaneously, France sent a formal warrant to Britain for Pinochet's arrest. The warrant was issued by Judge Roger Leloire who is investigating the disappearance of French citizens Marcel Amiel-Baquet, Rene Chanfreau and Etienne Pesle in Chile during Pinochet's rule. The warrant is the final legal step before France can officially request extradition. French Justice Minister Elisabeth Guigou said, 'The idea of immunity for someone like General Pinochet, who is responsible for several thousand murders, is unbearable.'

Italy and Belgium have also issued provisional arrest warrants. Switzerland is withholding a formal extradition request pending the outcome of the Spanish attempt. A group of Chilean exiles in Germany have also filed complaints.

All these requests will fail if the UK Law Lord's rule in Pinochet's favour.

Pinochet's arrest has brought to the surface issues that threaten the interests of ruling circles in Santiago, Washington, London and elsewhere. The events and the role played by the principal actors in the 1973 coup and the subsequent 17-year dictatorship are openly discussed once again. The 'democratic transition', supposedly effected in Chile, looks increasingly threadbare. Right-wing supporters of the former dictator held jubilant celebrations in Santiago following the High Court announcement, and the Chilean government has continuously pressed for the general's release on 'humanitarian grounds'. The army has ominously threatened that moves against Pinochet could 'throw back' the democratic process in Chile.

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Meanwhile, former victims of the regime continue to make angry protests. At an impromptu demonstration outside the Pinochet's clinic following the High Court ruling, protestors shouted 'Asesina' (killer) at Pinochet's wife and children.

Such is the public revulsion at the High Court decision that the Law Lords agreed to hear representations on behalf of Amnesty International, Redress Trust, the Medical Foundation for the Care of Victims of Torture, the family of 'disappeared' Anglo-Chilean William Beausire and British torture victim Dr. Sheila Cassidy. Welcoming this rare move, Amnesty stated, 'There is a long-established fundamental rule of international law that heads of state do not enjoy immunity for crimes against humanity.'

Despite this, the Law Lords,which comprises five senior judges and life peers, will not take evidence against Pinochet, nor will the charges against him have any bearing on their decision. They will rule only on whether the High Court was correct in stating that he enjoyed sovereign immunity. If, as is considered most likely, the Law Lords uphold this decision, Pinochet will be free to return home immediately. Whilst the decision will technically only apply to Judge Garzon's request, it will effectively settle the others remaining.

The legal row has generated fear and nervousness in ruling circles, especially in America and Britain. If Pinochet can be charged with crimes against humanity, then what of those governments and their agencies that supported, financed and directed his actions? Washington is attempting to keep under wraps mountains of evidence relating to Pinochet's state terror operations, both in Chile and abroad, for fear it would bring out the extent of US involvement.

The demand by ex-Prime Minister Margaret Thatcher's for the former dictator's release from custody highlights the long-standing connections between Britain and the Chilean regime. Back in 1973 the Conservative government of Edward Heath was one of the first to officially recognise the Pinochet regime, and British arms manufacturers continued to supply the general with military hardware. Within months of the September coup, two top-level delegations representing the Chilean military dictatorship visited Britain for secret talks with the Tory government. British military personnel were said to be involved. Following talks in February 1974 between the Tories and General Eduardo Cano, head of the Chilean Central Bank, Britain--with American and French support--was able to ensure that extremely favourable terms were extended to the junta for repayment of Chile's huge foreign debt. Such terms had been withheld from the Allende government during its three and a half year rule.

Spain's extradition request and the ensuing diplomatic arguments have created major political problems for the Labour government. In 1973 the Labour Party conference unanimously passed an emergency resolution condemning the fascist military coup and demanded the withdrawal of all British aid to the regime. In contrast, the Blair government continued friendly relations with Pinochet after it came to office last year. The former dictator visited Britain last year without encountering any difficulty. The *Sunday Telegraph* revealed last week that Pinochet's latest visit to Britain was at the direct request of the Ministry of Defence. Alan Sharman, director general of the Defence Manufacturer's Association, said Pinochet was part of an official delegation to buy military engineering equipment such as portable bridges and mine-clearing devices. The *Telegraph* claimed that Pinochet had received assurances that he would not be detained.

The longer this affair goes on, the worse it is for Blair's government. New Labour have been revealed as having rolled out the red carpet for a dictator they formerly condemned. They will be held responsible widely should he go free.

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